

COPY

**IN THE CIRCUIT COURT OF TENNESSEE
FOR THE TWENTY-NINTH JUDICIAL DISTRICT AT HARDEMAN COUNTY**

JERRY LAWLER, as father, next friend and
Personal Representative/Administrator of
the Estate of BRIAN CHRISTOPHER
LAWLER, deceased,

Plaintiff,

vs.

Docket No.

19-CV-15

JURY DEMANDED

HARDEMAN COUNTY, TENNESSEE;
JOHN DOOLEN; LEONARD BROWN;
ELLEN FUTRELL; WILLIAM
GONZALEZ; and JUDY WIGGINS;

Defendants.

FILED
CIRCUIT & GENERAL SESSIONS
COURT
7-26-19
AT AM 3:24 PM
BY BILLY DAVIS, CLERK *B+*
HARDEMAN COUNTY, TENNESSEE

COMPLAINT

COMES NOW Plaintiff Jerry Lawler, father, next friend, Personal Representative/Administrator of The Estate of Brian Christopher Lawler, deceased, and files this action against Hardeman County, Tennessee, John Doolen, Leonard Brown, Ellen Futrell, William Gonzalez, and Judy Wiggins and, in support, states as follows:

I. INTRODUCTORY STATEMENT

1. Plaintiff is filing this action to seek damages for the civil rights violations that Brian Christopher Lawler ("Brian" or "Brian Lawler" or "decedent") suffered while he was in the custody of the Hardeman County Jail. He is further asking this Court to order Hardeman County and its sheriff to implement policies and procedures at the Jail to protect other men and women from suffering similar violations in the future.

2. Defendants had an obligation to provide Brian Lawler with appropriate care and to protect him from harm while he was in their custody. Notwithstanding this obligation, Defendants failed to provide Brian with any treatment for his drug and alcohol issues while he was an inmate at the Jail and then altogether failed to provide him with appropriate care after he was assaulted by another inmate on July 28, 2018. Despite Brian having a significant open wound above his eye and urging Jail staff to take him to the hospital because of a suspected concussion, Defendants instead put Brian into a solitary confinement cell without assessing him for potential suicide risk. To make matters worse, Defendants put Brian in a cell that had large bolts protruding from the walls at a height where the bolts could be used as an anchor for a ligature and then let him keep his shoes and shoe laces that, when tied together, were the perfect length for a ligature.

3. Defendants put Brian in this cell with his shoe laces knowing that he had been diagnosed with major depressive disorder, had a history of drug and alcohol addiction issues and chronic pain syndrome and with the knowledge that he had attempted suicide in 2013 and 2015 and had just sustained a new injury to his head. Not only does the above set of facts constitute a gross deviation from the accepted standard of care from a healthcare liability perspective, but it also constitutes a civil rights violation on the part of all Defendants. Defendants had an obligation to protect Brian from harming himself but instead of protecting him, they put him in a cell by himself with perfectly placed anchors and shoe strings that could be used as a ligature.

4. Brian Lawler should have never been put into a solitary confinement cell with bolts protruding from the walls with his shoe laces, but even after he was put into this cell, Defendants had multiple opportunities to protect him from harm throughout the day on July 28th. Brian repeatedly cried out for help, but his cries for help were ignored. Defendant Gonzalez, a correctional officer, saw what he claims he thought was Brian standing on a concrete bench in the

cell under one of the protruding bolts with a towel over his head. Instead of immediately opening the cell door to make sure Brian was okay, this correctional officer walked past Brian's cell and took out the garbage without checking on Brian. After taking out the garbage and re-entering the building, Defendant Gonzalez noticed that Brian was in the same position. Again, instead of immediately accessing Brian's cell, Defendant Gonzalez asked a co-worker to check on Brian with him. The co-worker advised him that she had just seen Brian ten minutes earlier but upon being asked to check on Brian, the co-worker came to look into the cell. After the two correctional officers looked into the cell, the decision was finally made to access the cell to check on Brian. When the cell door was opened, the officers saw that Brian was hanging from one of the protruding bolts from his shoe laces. The guards attempted to cut Brian down, but they did not have a proper knife and instead had to use children's scissors to cut Brian down. While seconds matter in a situation like this, Defendant Gonzalez waited minutes before he ever attempted to help Brian. Defendant Gonzalez literally walked past Brian's cell while Brian was hanging from one of the protruding bolts and just kept walking by. Had Defendant Gonzalez accessed the cell when he first saw Brian with a towel over his head, Brian Lawler would be alive today.

5. Plaintiff is before the Court to seek justice for Brian's family, especially Brian's minor child, and to make sure that the Hardeman County Sheriff takes steps to fix the numerous constitutional violations outlined in this Complaint.

II. PARTIES

6. Plaintiff Jerry Lawler is and was at all times relevant to this action a resident of Memphis, Shelby County, Tennessee, and is a citizen of the United States of America. Plaintiff is the father of Brian Lawler and is bringing this action in his representative capacity as father, next

friend, Personal Representative/Administrator of Brian Lawler's estate on behalf of all wrongful death beneficiaries.

7. Brian Lawler was 46 years old at the time of his death and leaves behind one child. The child was a minor at the time of his death and is still a minor at the time of filing this Complaint. Because he is a minor, Plaintiff is only referring to him in this pleading as "BCL".

8. Defendant Hardeman County, Tennessee, ("Hardeman County") is a municipality/county in the State of Tennessee which operates the Hardeman County Sheriff's Department and the Hardeman County Jail ("Jail"). Defendant Hardeman County employs healthcare workers, including but not limited to those specifically identified herein, and is thus liable under the Tennessee Healthcare Liability Act. Defendant Hardeman County may be served with process by serving its county attorney, Charles "Chip" Cary at 118 Warren Street, Suite A, Bolivar, TN 38008. Defendant Hardeman County was responsible for managing the Jail at all times relevant to this claim and making sure that the Jail did not violate the civil rights of the inmates in the Jail. In addition to the civil rights claims asserted in this Complaint, Plaintiff is also asserting claims against this Defendant under the Tennessee Governmental Tort Liability Act and the Tennessee Healthcare Liability Act for the negligence of its employees. Defendant Hardeman County employed Jill Shearon and others to provide healthcare services at the Jail and Ms. Shearon was acting in the course and scope of her employment with Hardeman County at all times relevant to this action and as such, Defendant Hardeman County is liable for her deviations from the accepted standards of care in this case and the deviations and negligence of its other employees and agents and for failing to have policies, procedures and protocols in place to provide inmates with the care within the applicable standard of care.

9. Defendant John Doolen ("Defendant Doolen") was the Sheriff of Hardeman County, Tennessee, at all times relevant to this action and was responsible for developing policies and procedures to keep inmates, such as Brian Lawler, safe at the Hardeman County Jail and to make sure there were protocols in place to ensure that inmates receive the medical and/or mental healthcare they are entitled to under the Constitution of the United States of America. Defendant Doolen further expressly promised the decedent and Plaintiff that he would make sure that the decedent received the care he needed while at the Hardeman County Jail and altogether failed to take action to ensure that the decedent received such care. Defendant Doolen is being sued in his individual capacity and his official capacity. Defendant Doolen can be served with process at the Hardeman County Sheriff's Office at 505 South Main Street, Bolivar, TN 38008.

10. Defendant Leonard Brown ("Defendant Brown") was the Administrator of the Hardeman County Jail acting in the course and scope of his employment at all times relevant to this action and was responsible for developing policies and procedures to keep inmates and pretrial detainees, such as Brian Lawler, safe at the Hardeman County Jail and to make sure there were protocols set up to ensure that inmates receive the medical and/or mental healthcare treatment they are entitled to under the Constitution of the United States of America and to further make sure the deputy jailers and others at the Hardeman County Jail receive the training they need to be able to identify when to seek medical and/or mental healthcare for inmates. Defendant Brown is being sued in his individual capacity and official capacity and can be served with process at the Hardeman County Jail at 505 South Main Street, Bolivar, TN 38008.

11. Defendant Ellen Futrell ("Defendant Futrell") was an employee, officer, and/or agent of Hardeman County, Tennessee, acting in the course and scope of her employment at all times relevant to this action and can be served with process at the Hardeman County Jail at 505

South Main Street, Bolivar, TN 38008. Defendant Futrell was the intake officer who prepared the intake documentation concerning Brian at all times relevant to this Complaint. Defendant Futrell acted with deliberate indifference when she failed to document that Brian had attempted suicide in 2013 and 2015 so that others would know of Brian's past suicide attempts despite her being told by Brian about these prior attempts. Such failure led to the injuries and death of Brian. Defendant Futrell can be served at the Hardeman County Jail at 505 South Main Street, Bolivar, TN 38008.

12. Defendant William Gonzalez ("Defendant Gonzalez") was an employee of Hardeman County, Tennessee, acting in the course and scope of his employment at all times relevant to this action. Defendant Gonzalez can be served with process at 1295 Old Jackson Road, Whiteville, TN 38025. Defendant Gonzalez was on duty at all times relevant to this Complaint and acted with deliberate indifference when he walked past Brian's cell and saw Brian with a towel over his face and failed to take any action to protect Brian from harming himself. Defendant Gonzalez instead walked past Brian's cell, took the garbage out, dumped it in the dumpster and then came back later to find Brian hanging in this cell. Such failure led to the injuries and death of Brian.

13. Defendant Judy Wiggins ("Defendant Wiggins") was an employee of Hardeman County, Tennessee, at all times relevant to this action and was acting in the course and scope of her employment at all times relevant to this action. Defendant Wiggins can be served with process at the Hardeman County Jail at 505 South Main Street, Bolivar, TN 38008. Defendant Wiggins, with deliberate indifference, put Brian into a solitary confinement cell that had bolts sticking out of the walls that could be used as anchors for Brian or any suicidal inmate to hang himself if the inmate had something in the cell to use as a ligature. Defendant Wiggins put Brian into this cell with protruding bolts, with his shoes and shoe laces that could be used as a ligature, without

evaluating him or assessing him for suicide risk or without ensuring that it was done. Such failure led to the injuries and death of Brian.

III. COMPLIANCE OF NOTICE AND GOOD FAITH REQUIREMENTS

14. Plaintiff asserts that Defendants violated his son's civil rights during his July 2018 incarceration and that Hardeman County, by and through its employees and/or agents, further deviated from the accepted standard of care with regard to the medical and mental health treatment they provided and failed to provide. Plaintiff asserts that Defendant Hardeman County had an obligation to provide his son with appropriate medical and mental health treatment and failed to do so in this case. As such, Plaintiff is pursuing a claim under the Tennessee Healthcare Liability act against this Defendant in addition to the other claims asserted herein. Plaintiff has complied with the notice requirements for healthcare liability cases outlined in T.C.A. § 29-26-121 including, but not limited to, T.C.A. § 29-26-121(a) concerning this Defendant and as such, this Complaint is appropriately and timely filed for all claims asserted in this Complaint. Counsel for Plaintiff is further filing a Certificate of Good Faith contemporaneously with this Complaint, confirming that the undersigned has consulted with competent experts who believe there is a good faith basis to pursue the healthcare liability claims asserted in this matter.

IV. JURISDICTION AND VENUE

15. This Court has jurisdiction over this action pursuant to inter alia, T.C.A. §16-10-101 and Tennessee's wrongful death statutes, Tennessee's Governmental Tort Liability Act, Tennessee's Healthcare Liability Act and other applicable laws. This Court also has concurrent jurisdiction for any claims arising out of 42 U.S.C. §1983.

16. Venue is proper in this Court pursuant to inter alia, T.C.A. §20-4-101 because all or part of this cause of action arose within Hardeman County, Tennessee.

V. FACTS

18. The factual allegations set forth in the previous paragraphs are incorporated herein by reference.

19. On or about July 7, 2018, Sgt. Chris Wilkerson unfairly arrested Brian Lawler for allegedly driving under the influence and other related charges. Sgt. Wilkerson wrote in the arrest report that he smelled a strong odor of intoxication on Brian's breath, but Brian consented to a breathalyzer and a blood test and both confirmed he had no alcohol in his system.

20. After arriving at the Jail, Brian was booked and processed into the Jail by Defendant Ellen Futrell.

21. In the course of Defendant Futrell's intake questions, Brian told her that he had attempted suicide on two prior occasions and that he had a history of depression and anxiety. Brian informed Defendant Futrell that he had been diagnosed with a major depressive mood disorder and that he was taking a number of prescription medications for depression, anxiety, pain and inflammation.

22. Despite Brian's statement regarding his prior suicide attempts, the Jail's computer system automatically changed the positive response to a negative response because his suicide attempts happened more than two years before this incarceration, and Defendant Futrell in reckless disregard for Brian's welfare, failed to include a note in the system to alert other correctional officers and healthcare providers about these two prior suicide attempts. Plaintiff submits, however, that Defendant Futrell's knowledge of the prior suicide attempts is imputed to Defendant Hardeman County. Notwithstanding the issue of imputed knowledge, Defendant Hardeman County was deliberately indifferent by failing to properly train Defendant Futrell and/or for failing to have a system in place to alert staff of prior suicide attempts that happened more than two years before the subject incarceration.

23. Upon information and belief, the only mental health/suicide assessment ever done on Brian was done on July 7, 2018, by Defendant Ellen Futrell. Upon further information and belief, Defendant Ellen Futrell has no medical or mental health training and was woefully unqualified to conduct this assessment on Brian.

24. The system in place at the Hardeman County Jail in July 2018 for evaluating/assessing the mental health condition of inmates was woefully inadequate and constitutes a civil rights violation in and of itself. The questions asked of inmates in July of 2018 were woefully inadequate to assess suicidal ideation and Defendants' reliance on the initial assessment done on Brian for his entire stay at the Jail recklessly disregarded the reality that circumstances change for inmates during 3 week long incarcerations as evidenced by this case.

25. Defendants failed to refer Brian to a doctor or mental health professional at any time during his incarceration and failed to provide him with any treatment for his drug and alcohol issues while he was at the Jail despite Brian's statements concerning his use of various prescription drugs.

26. After Brian's arrest, Plaintiff met with Defendant Doolen in person with Brian to discuss his condition and available treatment programs at the Jail. Defendant Doolen assured Plaintiff that the Jail had drug and alcohol treatment options for Brian and that he would personally see to it that Brian received the treatment he needed. Based on this promise, Plaintiff opted not to bond his son out of Jail so that he could receive the treatment promised by Defendant Doolen.

27. Despite his promises, Defendant Doolen altogether failed to provide Brian with any treatment for his addiction issues or to help him with his withdrawal symptoms and his chronic pain symptoms in deliberate indifference to Brian's wellbeing.

28. Brian did not receive all of his medications while at the Jail despite his complaints of joint pain, several medical call requests and knowledge of the Jail staff that Brian suffered from depression, anxiety and had attempted suicide on more than one occasion.

29. On July 28, 2018, Brian was assaulted by another inmate and then denied prompt and appropriate medical attention for the injuries he sustained in this altercation. Brian pleaded with Jill Shearon (the jail nurse employed by Defendant Hardeman County to provide healthcare services at the Jail) and jailers to take him to the hospital. Brian told Ms. Shearon and Defendant Wiggins (and others) that he thought he had a concussion. He also had a significant open wound above his eye and needed stitches for this wound. Defendants, however, refused his requests for appropriate care.

30. Defendant Wiggins and Ms. Shearon not only refused to send Brian to the hospital for evaluation or to call a doctor or advance practice nurse to see him for his head injury, but they also put him into a solitary confinement cell without re-evaluating him for suicide risk. They apparently relied on the inadequate assessment that was done by Defendant Futrell some three weeks earlier. Upon information and belief, at least one employee of Defendant Hardeman County, including Defendant Wiggins and/or Ms. Shearon, told Brian that he would have to wait in a solitary confinement cell until Monday (two days later) to be seen by a doctor.

31. Upon information and belief, Defendant Doolen approved placement of Brian in a solitary confinement cell on July 28th without conducting any additional evaluation and without removing Brian's shoes and shoe laces. Moreover, Defendant Doolen lied to the public about Brian's placement in a solitary confinement cell when he initially told the media that Brian was put into this cell because he was a celebrity as if it was some honor to be put into a very small, solitary confinement cell.

32. The cell where Brian was placed contained numerous large bolts protruding from the upper portion of the wall that were perfectly situated to serve as an anchor for a ligature. Brian, an inmate with known prior suicide attempts, major depressive mood disorder, withdrawal pain and a head injury, was also allowed to keep his shoes with shoe laces in this room with anchors for a ligature situated all around the cell in deliberate indifference to his wellbeing. Plaintiff asserts that Defendants routinely put inmates into this cell with their shoe laces without re-evaluating them for suicide risk. The protruding bolts make absolutely no sense and Defendants' failure to remove these protruding bolts shows their reckless disregard for the wellbeing of the inmates at the Jail.

33. Given Brian's mental health history, his drug and alcohol history and his statement that he attempted suicide in 2013 and 2015, Defendant Hardeman County had an absolute obligation to refer Brian to a medical doctor and/or a mental health professional to be assessed for potential risk for suicide and for appropriate treatment before putting him into a solitary confinement cell and failed to do so in deliberate indifference to Brian's wellbeing. Mental health professionals were at the Jail on July 28th seeing other inmates and nobody even asked them to evaluate Brian.

34. Throughout the day on July 28, 2018, Brian repeatedly asked to be taken to the hospital. Brian also repeatedly screamed and cussed in protest for being placed in this solitary confinement cell. Despite his protests, Defendants failed to provide Brian with any help and nobody even tried to comfort him or tell him why he was being kept in this isolation cell.

35. Plaintiff asserts that Brian is not the first Hardeman County inmate to be denied appropriate care and that Defendant Doolen and the Jail engaged in a pattern of denying inmates appropriate medical care in the months and years leading up to Brian's death.

36. At approximately 6:30 p.m. on July 28, 2018, Defendant Gonzalez walked by Brian's cell and claims that he initially thought that he observed Brian standing on a bench in his cell with a towel over his face. Rather than immediately accessing Brian's cell to make sure he was okay, Defendant Gonzalez walked by the cell despite this concerning sight in reckless disregard for Brian's health and welfare. Defendant Gonzalez knew or should have known that Brian was in need of immediate medical attention, but he failed to take any action to check on Brian. The conduct of Defendant Gonzalez constitutes deliberate indifference and highlights the woefully inadequate training and policies that were in place at the Jail on July 28, 2018.

37. After taking out the garbage and returning to the Jail, Defendant Gonzalez again observed what he claims he still thought was Brian standing on a bench in his cell with a towel over his head and he finally called for assistance. Defendant Gonzalez, however, did not immediately seek access to the cell and instead spoke for some period of time with Defendant Wiggins about what he thought he was observing. Upon information and belief, Defendant Gonzalez thought Brian was faking a suicide attempt and failed to immediately access the cell until his co-worker finally came to see for herself. When Defendant Wiggins finally responded, they realized Brian was hanging from a bolt in his cell by his shoe laces. Based on Gonzalez' account of these events, he literally walked right past Brian's cell and looked in the cell while Brian was hanging from one of the protruding bolts in the cell and did nothing to help.

38. Upon information and belief, the Jail failed to have suicide scissors or an appropriate knife immediately available and instead had to use children's scissors to cut Brian down, by which time he was not breathing and unresponsive. Had Defendants responded timely and appropriately to this emergency, Brian would still be alive today.

39. Upon information and belief, Defendant Hardeman County had a policy and/or engaged in a pattern of conduct where it allowed its correctional officers and licensed practical nurse to put inmates with histories of head injuries, prior suicide attempts, drug and alcohol addiction, and mental health issues in solitary confinement cells with protruding bolts and with their shoe laces without being seen by a doctor or an advanced practice nurse or a mental health professional and without even being re-assessed for suicide risk. This practice constitutes deliberate indifference and a violation of Brian's constitutional rights. Plaintiff requests that the Court order Hardeman County to immediately remove all protruding bolts from its solitary confinement cells and to order that no inmate ever be placed into a solitary confinement cell with his or her shoe laces and that Hardeman County be required to reassess an inmate for suicide risk before putting them into a solitary confinement cell. Plaintiff further requests that Defendants be ordered to compensate Brian's wrongful death beneficiaries for the egregious failures outlined in this Complaint.

40. Defendant Hardeman County had an unconstitutional policy, practice, and/or custom which did not require jail staff to make meaningful and timely checks on inmates and pretrial detainees, such as Brian Lawler, particularly those with a history of suicide, depression and anxiety and who were assaulted by other inmates. Further, Defendant Hardeman County had an unconstitutional policy, practice and custom which did not require jail staff to seek timely medical/mental health treatment for inmates such as Brian Lawler and instead allowed staff to put injured inmates with histories like Brian's history, in solitary confinement cells with their shoe laces and without requesting a new mental health assessment. This practice constitutes a civil rights violation.

41. Had Defendants timely intervened to protect Brian from harm, he would be alive today.

42. Defendant Hardeman County, through Nurse Shearon and others, further failed to provide Brian with nursing, medical and mental health care in accordance with the applicable standard of care.

43. Defendants knew or should have known that seconds matter in protecting inmates from injury when they are hanging in a cell and yet they failed to train Defendants Gonzalez and Wiggins to timely respond to the situation they encountered on July 28th and failed to provide them with the appropriate tools they needed to save Brian's life.

44. Defendants Hardeman County, Doolen and Brown knew that their video surveillance system was not working properly and that they could not operate the Jail safely without it but nonetheless failed to take appropriate steps to fix or replace it for over a year in deliberate indifference to the wellbeing of all inmates, including Brian.

45. Brian Lawler was pronounced dead at approximately 3:40 p.m. on July 29, 2018. The cause of death was anoxic encephalopathy due to hanging. This death was preventable and would have been prevented if Defendants had appropriate policies and practices at the Jail and if they had provided staff with appropriate training. Moreover, Brian would be alive today had Defendants sent him to the hospital after he was assaulted as he requested and as was necessary.

46. Brian unnecessarily experienced pain, suffering and death as a result of the Defendants' deliberate indifference and unconstitutional conduct.

47. The injuries, harms, and damages sustained by Brian were foreseeable consequences of the actions and inactions of Defendants.

48. Employees of Defendant Hardeman County specifically or generally identified herein were at all times acting in the course and scope of their employment as agents of Hardeman County and/or the Hardeman County Jail and under color of law.

49. To the extent that Defendant Hardeman County had policies or practices in place to ensure that inmates in immediate need of care obtain such care, the individually named Defendants failed to follow such policies and/or practices in deliberate indifference to the health and welfare of Brian Lawler.

50. Defendant Hardeman County failed to provide the employees of the Jail with adequate training to recognize when an inmate is in need of immediate medical and/or mental health care and/or evaluation and failed to have policies in place to enable staff to comply with the United States Constitution.

**VI. CIVIL RIGHTS VIOLATIONS BY DEFENDANT HARDEMAN COUNTY
THROUGH ITS EMPLOYEES AND AGENTS, INCLUDING NAMED DEFENDANTS**

51. The allegations previously set forth in this Complaint are incorporated herein by reference.

52. Under the Fourth and Fourteenth Amendments to the United States Constitution, pretrial detainees have a right to adequate medical treatment that is analogous to a prisoner's Eighth Amendment right. In this case, Defendants failed to provide Brian Lawler with care he desperately needed during his incarceration and especially on July 28, 2018, when they failed to have a system in place to make sure inmates in need of immediate medical and/or mental healthcare received such care.

53. Defendants committed the above-described actions and/or omissions under color of state law and substantially deprived Brian Lawler of his rights, privileges, and immunities guaranteed him as a citizen of the United States in violation of 42 U.S.C. §1983 and deprived him

of rights guaranteed to him by the Fourth and Fourteenth Amendments to the United States Constitution including, but not limited to:

- a. The right to adequate medical/mental health care for a serious medical/mental health need;
- b. The right to adequate correctional care to protect one from harming one's self;
- c. The freedom from a deprivation of life and liberty without due process of law; and
- d. The right to be free from cruel and unusual treatment.

54. Defendants were deliberately indifferent to Brian's medical and/or mental healthcare needs and deprived him of his constitutional right to adequate medical and/or mental healthcare treatment.

55. Defendant Hardeman County, through its agents and policymakers, engaged in the actions described above while under the color of state law.

56. Defendant Hardeman County did not have a constitutional policy requiring timely and meaningful monitoring of inmates/detainees, such as Brian Lawler while in solitary confinement cells and failed to provide Brian with appropriate medical and mental health care services and this failure also constitutes a civil rights violation.

57. Defendants knew of and disregarded a substantial risk of serious harm to Brian's health and safety by putting him into a cell with protruding bolts without taking away his shoe laces and other items that could be used as a ligature given his history and his recent head injury.

58. The policies and/or customs and practices (or lack of appropriate policies and/or customs and practices) of Defendant Hardeman County were the moving force behind the constitutional violations.

59. The policies and/or customs (or lack of appropriate policies and/or customs) of Defendant Hardeman County were implemented with deliberate indifference to the rights of arrestees or pretrial detainees, such as Brian Lawler.

60. Defendant Hardeman County, alternatively, failed to have a policy or practice to guide or adequately train its deputy jailers in violation of the Constitution of the United States.

61. Plaintiff alleges that Defendant Hardeman County failed to contract with an entity that was capable of providing adequate and timely medical and/or mental healthcare attention for the serious medical and/or mental healthcare needs of its pretrial detainees and inmates, and/or failed to have a system or practice in place to ensure that inmates in need of immediate medical and/or mental healthcare would receive the care they needed on a timely basis. Plaintiff asserts that Defendant Hardeman County cared more about saving money than it did about saving lives.

62. Defendant Hardeman County through its failure to adequately train its staff, allowed, condoned, and ratified this type of conduct at the Jail.

63. Hardeman County further had the obligation to supervise officers, jailers and deputy jailers at the Hardeman County Jail and violated Brian's constitutional rights for failing to do so.

64. As a direct and proximate result of all the constitutional violations committed by each Defendant named herein, Brian Lawler experienced pain and suffering and ultimately died. The decedent's death was the foreseeable consequence of Defendants' constitutional violations. Defendants violated the above-described constitutional rights which were clearly established at all times relevant to this action. Defendants knew and disregarded a substantial risk of serious harm to Brian's health and safety.

VII. CIVIL RIGHTS VIOLATIONS OF DEFENDANTS JOHN DOOLEN AND LEONARD BROWN IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES AND BREACH OF PROMISE ON THE PART OF DEFENDANT DOOLEN

65. The allegations previously set forth in this Complaint are incorporated herein by reference.

66. Defendant John Doolen was the Hardeman County Sheriff at all times relevant to this case. He had a constitutional duty on and before July 28, 2018, to develop policies, procedures and practices and/or maintain and enforce such policies at the Hardeman County Jail to ensure that inmates in need of immediate medical and/or mental healthcare receive the care they need. Sheriff Doolen had a constitutional duty to develop policies, procedures and practices and/or maintain and enforce such policies at the Hardeman County Jail to ensure that inmates are adequately evaluated upon their arrival at the Hardeman County Jail by qualified individuals to determine whether they are in need of immediate medical and/or mental healthcare and to have further policies, procedures and practices to ensure that inmates are monitored throughout their incarcerations to determine whether they need to be evaluated by a licensed healthcare provider including making sure that they are evaluated for potential suicide risk before putting them in a solitary confinement cell with their shoes and shoe laces. This Defendant violated these and all duties set forth in this section with deliberate indifference to the serious medical and/or mental healthcare needs of Brian Lawler and others similarly situated. Moreover, this Defendant expressly represented that he would make sure that Brian Lawler received treatment for his drug and alcohol issues and his mental health issues while in the Jail and that he would make sure Brian was protected while in the Jail. Defendant Doolen altogether failed to keep this promise.

67. Defendant Leonard Brown was the Hardeman County Jail Administrator at all times relevant to this case. He likewise had a duty on and before July 28, 2018, to develop policies,

procedures and practices and/or maintain and enforce such policies at the Hardeman County Jail to ensure that inmates in need of immediate medical and/or mental healthcare receive the care they need. Defendant Brown had a duty to develop policies, procedures and practices and/or maintain and enforce such policies at the Hardeman County Jail to ensure that inmates are adequately evaluated upon their arrival at the Hardeman County Jail to determine whether they are in need of immediate medical and/or mental healthcare and to have further policies, procedures and practices to ensure that inmates are monitored throughout their incarcerations to determine whether they need to be evaluated by a licensed healthcare provider. This Defendant violated these duties set forth in this section with deliberate indifference to the serious medical and/or mental healthcare needs of Brian Lawler and others similarly situated.

68. These Defendants further had a constitutional duty to operate the Jail in a safe manner with a working surveillance system. Defendants Doolen and Brown knew that they could not operate the Jail safely without a working surveillance system, yet continued to knowingly operate the Jail in an unsafe manner for more than a year leading up to Brian's death in deliberate indifference to the health and wellbeing of all inmates.

69. Defendants Doolen and Brown further had a duty to adequately train and supervise the deputy jailers and other employees staffing the Hardeman County Jail to be able to recognize when an inmate is in need of medical and/or mental healthcare and to create a culture at the Hardeman County Jail where deputy jailers understand that the inmates in their custody have a constitutional right to medical and mental healthcare when needed and have the further right to be protected from suicide where such suicide is foreseeable and preventable.

70. Upon information and belief, these Defendants had knowledge of Brian's presence in the Jail on July 28th, that he had a serious mental health issue, that he had alcohol and drug

addiction issues, that he had a head injury from an altercation with another inmate and that he was put into a solitary confinement cell with large bolts protruding from the wall with his shoes and shoe laces without being evaluated by a mental health professional. Neither Defendant took any action to assist Brian or obtain medical and/or mental healthcare assistance for him; nor did they adequately supervise Jail staff to make certain that Brian's constitutional rights were protected and that his medical and/or mental healthcare needs were addressed. Their failure to get Brian medical and/or mental healthcare assistance and their failure to supervise those Jail employees who were in the jail on July 28, 2018, constitutes deliberate indifference to Brian's constitutional right including his right to receive adequate and necessary medical and/or mental healthcare treatment and care.

71. These Defendants violated the above described constitutional rights which were clearly established at all relevant times. These Defendants knew of and disregarded a substantial risk of serious harm to Brian's health and safety.

72. As a direct, proximate and foreseeable result of the actions and inactions of these Defendants, Brian Lawler suffered the harms and damages alleged herein as well as his ultimate death.

VIII. NEGLIGENCE OF DEFENDANT HARDEMAN COUNTY AND ITS AGENTS AND DEVIATIONS FROM APPLICABLE STANDARD OF CARE

73. The allegations set forth in the previous paragraphs of this Complaint are incorporated herein by reference.

74. Defendant Hardeman County is being sued for violating the civil rights of Brian Lawler. Plaintiff also believes that agents of Hardeman County (and Hardeman County as well) were negligent in this case and are suing Hardeman County pursuant to the provisions of the

Governmental Tort Liability Act, T.C.A. § 29-20-101, et seq. as well, thereby subjecting it to liability for the acts of its agents, employees, apparent agents, and officers for their negligence.

75. Defendant Hardeman County is a governmental entity as defined in T.C.A. §29-20-103.

76. Defendant Hardeman County's immunity from suit has been removed by the Tennessee Governmental Tort Liability Act including, but not limited to, T.C.A. §29-20-205, which states. "[i]mmunity from suit of all governmental entities is removed for injury proximately caused by the negligent act or omission of any employee within the scope of his employment. . ."

77. Defendant Hardeman County, through its agents and employees, owed Brian Lawler a duty of reasonable care and violated that duty directly and proximately causing him foreseeable harm.

78. Defendant Hardeman County is being sued for its negligence and the negligence of its employees, including but not limited to the negligent hiring, training, supervision, and retention of employees and failing to take necessary steps to prevent the injuries suffered by Brian Lawler. Defendant Hardeman County is also being sued for the deviation of the applicable standard of care on the part of the licensed healthcare providers that it employed.

79. Defendant Hardeman County is liable under applicable state law for the actions and omissions committed by its employees who were acting within the scope of their employment at all times in connection with their actions.

80. Defendant Hardeman County, through its employees, should have reasonably foreseen that its employees would fail to provide necessary medical and/or mental healthcare attention to a pretrial detainee under their exclusive care and custody.

81. Defendant Hardeman County, Tennessee, and all named individual Defendants, as well as all other agents or apparent agents of Defendant Hardeman County, Tennessee, owed the decedent a duty to use reasonable care under all applicable circumstances, failed to exercise such care, proximately and directly causing harm to the decedent including, but not limited to his death.

82. All of the decedent's injuries and his death were the foreseeable consequences of the negligence of each defendant named herein.

83. If it is shown that Defendants did not act with deliberate indifference in this case or otherwise violate Brian's civil rights, Plaintiff would assert that they were, at minimum, negligent by breaching their duties of care and failing to recognize that Brian was in danger and they altogether failed to take any action to prevent this tragic event. For instance, by way of alternative pleading, Defendant Gonzalez was at minimum, negligent in failing to recognize that Brian was in immediate distress and thus failing to immediately access Brian's cell before exiting the building to take out the garbage. Likewise, he and Defendant Wiggins were at minimum, negligent in failing to recognize the exigency of the situation and thus failing to immediately access Brian's cell as soon as Defendant Gonzalez returned from taking out the garbage. By way of alternative pleading, other examples of negligence would be Defendant Futrell's failure to recognize the importance of including a note about Brian's past suicide attempts and Defendant Wiggins' decision to put Brian in a solitary confinement cell without recognizing the dangers of having bolts protruding from the walls, of foregoing a new mental health assessment, and of leaving Brian with his shoes and shoe laces. Defendant Hardeman County is vicariously liable for such negligence. Brian died as a direct result of this negligent conduct and suffered intense emotional and physical pain prior to his death.

84. Defendant Hardeman County, through its agents, had a duty to use reasonable care in hiring, retention, supervision, and disciplining its employees and breached that duty which was the cause in fact and proximate cause of Brian Lawler's injuries and death.

85. Defendant Hardeman County had a duty to provide for the safety and security of Brian Lawler and to take reasonable measures to keep him from harming himself and violated these duties of care.

86. Plaintiff submits that Defendant Hardeman County and its agents including, but not limited to Defendants, acted with negligence and/or gross negligence.

87. Defendant Hardeman County had an obligation and duty of care to staff the Jail with trained employees and/or agents and to further take reasonable steps to protect inmates from harm. Defendant Hardeman County violated that duty.

88. Defendant Hardeman County, pursuant to Tennessee law, further had a duty to provide Brian with appropriate medical care and mental health care and violated that duty in this case.

89. Jill Shearon was a licensed healthcare provider at all times relevant to this action and was hired by Defendant Hardeman County to provide health care services at the Jail. Ms. Shearon as an agent of Defendant Hardeman County, had an obligation to comply with the applicable standard of care for nurses in correctional institutions. In this regard, she had an obligation to refer Brian to a higher level of care if necessary and to provide Brian with care within the accepted standard of care for any care she actually provided him. Defendant Hardeman County, through Ms. Shearon acting in the course and scope of her employment, violated the accepted standard of care by failing to appropriately assess Brian's risk for suicide, by failing to treat Brian's physical injuries, by failing to initiate an appropriate detoxification plan for Brian, by failing to

treat Brian's mental health issues, by failing to refer Brian out to a higher level of care and by allowing Brian to be placed into a solitary confinement cell with protruding bolts with his shoes and shoe laces after he sustained a head injury in an altercation with another inmate without conducting a thorough mental health assessment of Brian.

90. Defendant Hardeman County is vicariously liable for all the negligent actions of its employees and agents acting in the course and scope of their agency, including Jill Shearon.

91. Brian suffered greatly before his death and ultimately died as a direct result of the negligence alleged herein.

92. Defendant Hardeman County had adequate notice or at least constructive notice of such dangerous practices by its employees and/or agents and failed to take reasonable steps to protect Brian from harm.

93. The actions and/or inactions of Defendant Hardeman County were the proximate and actual cause and cause in fact of Brian Lawler's injuries, harms, and death. It was foreseeable that Brian would suffer harm and die as a result of the actions and/or inactions of Defendant Hardeman County.

IX. LOSS OF CONSORTIUM

94. The allegations previously set forth in the Complaint are incorporated herein by reference.

95. As a direct and proximate result of Defendants' actions and inactions described in this Complaint, BCL, the child of the decedent, suffered the loss of care, guidance, compassion, support, services, love, affection, and consortium of his father, and is entitled to loss of consortium damages from Defendants.

X. DAMAGES

96. The allegations previously set forth in the Complaint are incorporated herein by reference.

97. Plaintiff asserts that he is entitled to all available damages under the applicable law including, but not limited to, his son's loss of earnings, loss of future earning capacity, damages for the conscious pain and suffering, mental anguish, loss of enjoyment of life, loss of consortium of the decedent's son, attorneys' fees and legal expenses, and funeral expenses. Plaintiff seeks all damages available under 42 U.S.C. §1983 et. seq., Tennessee's Governmental Tort Liability Act, Tennessee's Healthcare Liability Act, Tennessee's wrongful death statutes, and all other applicable causes and statutes.

XI. PUNITIVE DAMAGES

98. The allegations set forth in the previous paragraphs to this Complaint are incorporated herein by reference.

99. Plaintiff alleges that the conduct of some of the Defendants was intentional, willful, reckless, grossly negligent, and/or malicious entitling Plaintiff to a substantial award of punitive damages to be determined by the jury in this action against those Defendants and would ask the Court to award punitive damages in this case if the proof supports such an award.

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF PRAYS:

- a. That Defendants be served with a copy of the Complaint filed in this matter;
- b. That Plaintiff be awarded compensatory damages in the amount of \$3,000,000.00;
- c. To the extent state statute limits the maximum recovery, Plaintiff seeks the maximum amount permitted by law;

- d. That Plaintiff be awarded punitive damages in an amount to be determined by the jury if the jury believes punitive damages are warranted in this case;
- e. That Defendant Hardeman County be required to put in place proper policies and training to address the provision of timely and adequate protection and provision of medical and mental healthcare, particularly in situations such as those addressed in this Complaint where a person arrested was an obvious suicide risk and where serious medical and mental distress is evident;
- f. If Hardeman County had an unconstitutional policy or practice with regard to the provision of medical and/or mental healthcare to inmates that are taken into its custody who have a history of suicide attempts or if Hardeman County failed to have a policy or practice at all to protect inmates that are taken into its custody who are a suicide risk and/or if Hardeman County failed to properly train its deputy jailers on how to protect such inmates, Plaintiff would ask this Court to order Defendants Hardeman County, Sheriff Doolen and Captain Brown to establish constitutional policies and/or practices to protect these inmates from harm and to further implement appropriate training to make sure its deputy jailers know how to protect these inmates from harm; and
- g. That Plaintiff be awarded such other relief, both general and special, including attorneys' fees and costs, to which they may be entitled. In the event Plaintiff is successful on his alternative civil rights claim, he seeks fees and costs pursuant to 42 U.S.C. §1988 and other applicable laws.

PLAINTIFF HEREBY DEMANDS A JURY FOR THOSE CAUSES OF ACTION WHERE
THE LAW PERMITS A TRIAL BY JURY.

Respectfully submitted,



Jeffrey S. Rosenblum, #13626

Marc E. Reisman, #13931

Matthew T. May, #25547

Rosenblum & Reisman, P.C.

6070 Poplar Avenue, Suite 550

Memphis TN 38119

jeffr@randrfirm.com

marc@randrfirm.com

matt@randrfirm.com

Phone: (901) 527-9600

Fax: (901) 527-9620

**IN THE CIRCUIT COURT OF TENNESSEE
FOR THE TWENTY-NINTH JUDICIAL DISTRICT AT HARDEMAN COUNTY**

JERRY LAWLER, as father, next friend and
Personal Representative/Administrator of
the Estate of BRIAN CHRISTOPHER
LAWLER, deceased,

Plaintiff,

Docket No. _____

vs.

JURY DEMANDED

HARDEMAN COUNTY, TENNESSEE;
JOHN DOOLEN; LEONARD BROWN;
ELLEN FUTRELL; WILLIAM
GONZALEZ; and JUDY WIGGINS,

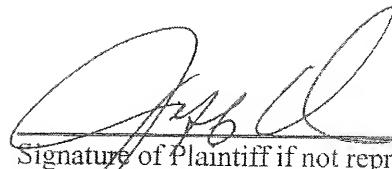
Defendants.

**CERTIFICATE OF GOOD FAITH
Medical Malpractice Case/Healthcare Liability
PLAINTIFF'S FORM**

A. In accordance with T.C.A. §29-26-122, I hereby state the following: (Check item 1 or 2 below and sign your name beneath the item you have checked, verifying the information you have checked. Failure to check item 1 or 2 and/or not signing item 1 or 2 will make this case subject to dismissal with prejudice.)

[X] 1. The Plaintiff or Plaintiff's counsel has consulted with one (1) or more experts who have provided a signed written statement confirming that upon information and belief they:

- (A) Are competent under T.C.A. §29-26-115 to express opinion(s) in the case; and
- (B) Believe, based on the information available from the medical records concerning the care and treatment of Plaintiff for the incident(s) at issue, that there is a good faith basis to maintain the action consistent with the requirements of T.C.A. §29-26-115.



Signature of Plaintiff if not represented, or Signature
of Plaintiff's counsel

OR,

[] 2. The Plaintiff or Plaintiff's counsel has consulted with one (1) or more experts who have provided a signed written statement confirming that, upon information and belief, they:

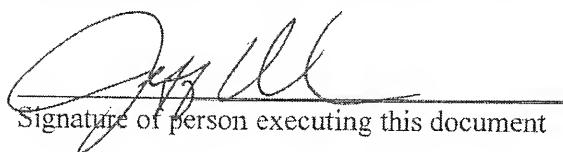
(A) Are competent under T.C.A. §29-26-115 to express opinion(s) in the case; and

(B) Believe, based on the information available from the medical records reviewed concerning the care and treatment of Plaintiff for the incident(s) at issue and, as appropriate, information from Plaintiff or others with knowledge of the incident(s) at issue, that there are facts material to the resolution of the case that cannot be reasonably ascertained from the medical records or information reasonably available to Plaintiff or Plaintiff's counsel; and that despite the absence of this information, there is a good faith basis for maintaining the action as to each Defendant consistent with the requirements of T.C.A. §29-26-115. Refusal of Defendant to release the medical records in a timely fashion, or where it is impossible for Plaintiff to obtain the medical records, shall waive the requirement that the expert review the medical records prior to expert certification.

Signature of Plaintiff if not represented, or Signature
of Plaintiff's counsel

B. You MUST complete the information below and sign:

I have NOT been found in violation of T.C.A. §29-26-122 at any time.



Signature of person executing this document

7-26-19
Date